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No 3

CORRUPT PRACTICES AT ELECTIONS

Contributions and Expenditures

MARGARET A. SCHAFFNER

MADISON, WISCONSIN
FEBRUARY, 1906

The present agitation over campaign expenditures, and also campaign contributions, by insurance companies has made necessary this brief digest of legislation upon this subject.

CHARLES MCCARTHY,
Librarian Legislative Reference Department.

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Compiled with the co-operation of the Political Science Department of the University of Wisconsin

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JAMES HENRY. British corrupt practices act. Forum, April,
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Gives specific information on assessment of candidates, voluntary contributions, and the purchase of votes.

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LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

WHAT ARE CORRUPT PRACTICES

Definitions

England. Under the British statute¹ corrupt practices at elections include: 1. bribery; 2. treating; 3. undue influence; 4. personation, and aiding, abetting, counselling, and procuring the commission of the offense of personation; 5. knowingly making a false declaration as to election expenses.

The English law also defines and provides penalties for illegal practices and illegal payments.

United States. The definitions for corrupt practices vary for the several states.

A typical definition is found in the Connecticut law of 1905, c. 280, sec. 11, which designates the following acts as corrupt practices: bribery; solicitation of candidates for campaign contributions, except by political committees; contributing campaign funds to others than to authorized treasurers or political agents; offering to procure office or appointment for another in order to influence his vote; making or receiving campaign contributions under assumed name.

¹Corrupt and illegal practices prevention acts, 1883 (46 and 47 Vict. c. 51) and 1895 (58 and 59 Vict. c. 40).

The California law of 1893, c. 16, and the Minnesota law of 1895, c. 277, also give extended definitions of corrupt practices.

CORRUPT CONTRIBUTIONS AND EXPENDITURES

Within recent years the legislatures of nearly a score of our states have placed limitations upon the irresponsible disposition of money in elections, and have sought to separate corrupt contributions and expenditures from those that are lawful.

Expenditures

In some of the states lawful expenditures are enumerated in the statutes and all others are expressly forbidden.

Minnesota. Thus the Minnesota law of 1895, c. 277, limits legal expenditures to the following: 1. for the personal traveling expenses of the candidate, 2. for the rent of hall or rooms for the delivery of speeches relative to principles or candidates in any pending election, and for the renting of chairs and other furniture properly necessary to fit such halls, or rooms for use for such purposes; 3. for the payment of public speakers and musicians at public meetings and their necessary traveling expenses; 4. printing and distribution of lists of candidates or sample tickets, speeches or addresses by pamphlets, newspapers or circulars, relative to candidates, political issues or principles, cards, handbills, posters or announcements; 5. for challengers at the polls at elections; 6. for copying and classifying of poll lists; 7. for making canvasses of voters; 8. for postage, telegraph, telephone or other public messenger service; 9. for clerk hire at the head-

quarters or office of such committee; 10. for conveying infirm or disabled voters to and from the polls.

Connecticut. The Connecticut law of 1905, c. 280, sec. 5, enumerates the expenses which may be lawfully incurred by treasurers of committees and by political agents as follows: (a) for hiring public halls and music for conventions, public meetings, and public primaries, and for advertising the same; (b) for printing and circulating political newspapers, pamphlets, and books; (c) for printing and distributing ballots and pasters; (d) for renting rooms to be used by political committees; (e) for compensating clerks and other persons employed in committee rooms and at the polls; (f) for traveling expenses of political agents, committees, and public speakers; (g) for necessary postage, telegrams, telephones, printing, express, and conveyance charges. Expenses not specially authorized are not to be incurred.

Contributions

Provisions against contributions from certain specified sources present a further attempt to limit and regulate campaign funds. The prohibition of corporate contributions for political purposes is found in a number of states. Among other restrictions in force are those against the political assessment of public officers and employees, and the solicitation of candidates.

PURPOSE OF LIMITATIONS

Common law regulation

In a decision given in 1762 Lord Mansfield points out that "Bribery at elections for members of parliament must undoubtedly have always been a crime at common law and consequently punishable by indict-

ment or information." *Rex. v. Pitt* and *Rex v. Mead*,
3 Burr. 1335.

Statutory provisions

But while the common law was able to check direct and open bribery, statutory limitations have become necessary in order to make the law effective against the more subtle and insidious methods of corruption.

LAWS AND JUDICIAL DECISIONS

Foreign countries

England. Corrupt and illegal practices prevention acts, 1883 (46 and 47 Vict. c. 51) and 1895 (58 and 59 Vict. c. 40) The English law provides penalties for false personation at the polls, repeating, intimidation, undue influence, and bribery of voters. It restricts the employment of paid agents, clerks, messengers, etc. by candidates or election committees within narrow limits. It prescribes a fixed scale of lawful expenditures by candidates and committees and requires a full account of such expenditures.

Canada. Rev. St. 1886, c. 8, 9, 10, and Dominion elections act, 1900 (63-64 Vict. c. 12) The main provisions of the British act are adapted to Canadian conditions.

Austria-Hungary. The Austrian Penal Code punishes corrupt practices at elections by imprisonment. The Hungarian Electoral Law of 1874 deals similarly with corrupt practices but is less effective.

Belgium. The Code Electoral makes corrupt practices punishable by fine or imprisonment or both, and deprives any person who has bribed or been bribed of his electoral rights for from five to ten years.

France. The French Penal Code makes corrupt election practices offenses at law and punishes every attempt at bribery by imprisonment of from three months to two years or by a fine ranging from fifty to five hundred francs or by both penalties.

Germany. The Criminal Code makes the purchase or the sale of an electoral vote punishable by imprisonment with loss of civil rights.

Italy. A permanent election commission of the Chamber of Deputies is provided for which in accordance with the rules of the Chambers and of the Penal Code makes inquiry into cases of suspected corrupt practices.

Sweden. The Fundamental Law, 1809, makes persons convicted of corrupt election practices ineligible to the Diet. The law further provides imprisonment at hard labor for offenders; corruption is practically unknown.

Norway. Corrupt practices at elections are made punishable by the Criminal Law, and candidates are disqualified upon conviction.

United States

Congress has power to control federal elections and to provide punishments for offences.¹

Act of Congress, Aug. 15, 1876, c. 287, sec. 6, forbids executive officers or employees of the United

Compare: *ex parte Siebold*, 1879, 100 U. S. 371; *ex parte Clarke*, 1879, 100 U. S. 399; *ex parte Yarbrough*, 1883, 110 U. S. 651; *James v. Bowman*, 1903, 190 U. S. 127.

¹Bills are now (Feb. 1906) pending in Congress providing for publicity of campaign contributions and expenditures in federal elections; and also for prohibiting contributions by corporations chartered by the United States or engaged in interstate commerce.

States from requesting, giving to, or receiving from any other officer or employee of the government any money or other thing of value for political purposes.

Act is constitutional. *Ex parte Curtis*, 1882, 106 U. S. 371.

Alabama. Cr. Code, 1896, secs. 4191, 4694. Penalty for giving away liquor at elections, fine and imprisonment; for bribing voters, fine and imprisonment or hard labor.

Laws, 1899, p. 126. Punishes bribery at primary elections and makes candidate guilty of bribing ineligible for office.

Arizona. Laws, 1895, c. 20. Requires candidates and committees to file sworn, itemized statement of receipts and expenditures. Failure to file made a misdemeanor and on part of candidate also causes forfeiture of office. Punishes bribery by fine or imprisonment or both. Betting on elections made a misdemeanor.

Arkansas. Laws, 1891, c. 30, sec. 39. Bribery at elections made a felony.

Laws, 1897, c. 35. Prohibits giving away intoxicating liquors on primary election days.

California. Laws, 1893, c. 16. Requires candidates and committees to file sworn, itemized statements of receipts and expenditures, showing in detail all the money contributed or received with the name of each donor or subscriber or the source from which money was derived together with the names of persons to whom money was paid, the specific nature of each item, by whom the service was performed, and the purpose for which the money was expended. Refusal to file causes forfeiture of office. Only candidates or com-

mittees are permitted to expend money. Legitimate expenses are defined and the amount that can be expended is limited according to compensation attached to office. Bribery of electors is made punishable by imprisonment of not less than one nor more than seven years. Betting and treating are punishable as misdemeanors.

Laws, 1895, c. 185. Requires independent candidates to conform to the same requirements as party nominees.

Laws, 1905, c. 479. Giving or receiving or offering to give or receive anything of value in order to influence any voter at any election made punishable by imprisonment of not less than one nor more than seven years.

Colorado. Gen. Laws, 1877, p. 381. Giving away liquor on election day punishable by fine or imprisonment or both.

Laws, 1891, c. 167. Requires candidates and committees to file statement of expenses incurred in aid of election. Statements are to be made under oath and are to show in detail all sums of money received, from whom received, and to whom and for what purpose money was paid. Failure to file statement made a misdemeanor and on part of candidate also causes forfeiture of office. Bribery of voters is made a felony and betting a misdemeanor.

Connecticut. Laws, 1877, c. 146, sec. 43. Betting on elections is punishable by fine.

Laws, 1895, c. 69. Paying naturalization fees for others is prohibited.

Laws, 1905, c. 280. Requires candidates, political agents, and treasurers of political committees to file

sworn, itemized statements of receipts, expenditures, and outstanding obligations. No person other than a treasurer or political agent is permitted to pay any election expenses except that candidates may pay their own expenses for postage, telegrams, telephones, stationery, printing, express, and traveling. Candidates who have not expended anything for their election are to certify to that fact. Failure to file statement by candidate is punishable by a fine of \$25 for every day he is in default unless excused by the court.

Expenditures which may be incurred by treasurers of committees or by political agents are enumerated and corrupt contributions and expenditures are defined.

Inquiry into corrupt practices may be instituted by any elector upon giving bonds for prosecution. Trials are to be conducted before two judges without a jury and a unanimous decision is necessary for conviction. Any candidate found guilty of corrupt practices is rendered ineligible for public office for four years but he is not held responsible for corrupt acts of his agents unless done with his sanction or connivance. Penalty for violation of the act is a fine not exceeding \$1,000 or imprisonment for not more than one year or both.

Delaware. Const. 1897, art. 5, sec. 7. Bribery of electors punishable by fine or imprisonment or both and by disfranchisement for ten years. Betting on elections, a misdemeanor. Testimony may not be withheld on ground of self incrimination except by person accused, but such testimony is not to be used against person testifying except for perjury.

Florida. Laws, 1898, c. 24. Prohibits the use of money by corporations to secure candidacy or election of any person or for any other political purpose.

Laws, 1903, c. 85. Unlawful to give liquor on election day.

Georgia. Pen. Code, 1895, sec. 629. Any person in any way concerned in buying or selling a vote at any election, guilty of a misdemeanor.

Laws, 1904, p. 97. Extends penalty to offenses at primary elections.

Idaho. Pen. Code, 1901, secs. 4576, 4578, 4581. Bribing electors or betting on elections, misdemeanors. Giving away liquor on election day, prohibited.

Illinois. Rev. St. 1899, c. 46, secs. 83, 85. Any person soliciting or receiving money, liquor, or any other thing of value either to influence his vote or to procure the vote of another is guilty of bribery and upon conviction is to be sentenced to disfranchisement for not less than five nor more than fifteen years and to jail not less than three months nor more than one year, and to pay costs of prosecution and stand committed until paid. For second offense, to be forever disfranchised in the state, imprisoned in jail not less than a year and to stand committed until costs of prosecution are paid. Any person thus disfranchised, offering to vote shall on conviction be confined in penitentiary for not less than one nor more than ten years. Any person bribing or promising to bribe is not liable to punishment but shall be compelled to testify in prosecutions. Betting on election punishable by fine or imprisonment or both.

Act is constitutional. *Christy v. People*, 1903, 206 Ill. 337.

Indiana. Rev. St. 1901, sec. 2194. Giving away liquor on election days punishable by fine and imprisonment.

Sec. 6339y. Candidates for county, township, city, or municipal office, voted for at any convention or primary are required to file itemized statements of expenses with the county or city clerk. Failure to file is punishable by fine, from \$50 to \$500, by disfranchisement, and ineligibility to public office for a definite period.

Laws, 1905, c. 158. Bribery at elections is punishable by fine not to exceed \$50 and by disfranchisement and disqualification for holding office for ten years.

Laws, 1905, c. 169. Penalty for betting upon elections, fine, or fine and imprisonment.

Iowa. Laws, 1895, c. 59. Bribery at elections punishable by fine or imprisonment or both.

*Kansas.*¹ Laws, 1893, c. 77. Prohibits the use of money or other valuable thing to influence voters or to reward services at polls, also prohibits treating.

Kentucky. St. 1899, secs. 1575, 1586-87. Bribery at elections excludes offender from office and suffrage. Also adds fine as punishment for receiving and fine or imprisonment or both for giving bribe. Furnishing liquor on election day, a misdemeanor.

Laws, 1900, c. 12. Unlawful for corporations to contribute to campaign funds.

Louisiana. Laws, 1890, c. 78. Bribery at elections punishable by fine and imprisonment at hard labor.

Maine. Rev. St. 1903, c. 6, secs. 95, 97. Bribery and corruption at elections made punishable by fine and imprisonment and ineligibility to any office for ten

¹Laws, 1903, c. 230. Repeals Gen. St. 1901, secs. 2734-42, requiring itemized statement of expenditures in political campaigns.

years. Betting on elections punishable by forfeiture of wager to the town.

Maryland. Code, 1904, art. 33, secs. 88, 112. Attempting to influence any voter by bribery or reward or offer or promise thereof, punishable by imprisonment. Betting upon elections punishable by fine.

Massachusetts. Rev. Laws, 1902, c. 11, as amended by Laws, 1903, c. 318, and 1904, c. 375, 380. Candidates and committees are required to file sworn statements of expenses. Payments by candidates are limited to contributions to political committees and for personal expenses which may include payments for traveling, writing, printing, the transmission of letters, circulars, and messages, and for similar purposes. The statements filed by committees and by others handling funds are to set forth in detail all receipts, expenditures, disbursements and outstanding obligations: if the accounts of any committee do not exceed \$20 that fact shall be certified. Committees and others handling funds are prohibited from paying naturalization fees. Complaint of violation of the law may be made either by the proper official or by five registered voters. Proceedings for enforcement are to be brought by the attorney general or by the proper district attorney. Penalty for violation of law, a fine of not more than \$1,000, or imprisonment not exceeding a year. Penalty for bribing voters, imprisonment limited to one year.

*Michigan.*¹ Comp. Laws, 1897, secs. 11437-69. Bribery at elections is punishable by fine or imprison-

¹Laws, 1901, c. 61. Repeals sec. 3654 of Comp. Laws, 1897 (Laws, 1891, c. 190) requiring candidates and election committees to report expenditures under oath.

ment or both. Giving away liquor or betting on elections made misdemeanors. Legitimate expenses include the cost of printing and advertising, holding public meetings and procuring speakers, obtaining and distributing papers and tickets, and bringing voters to the polls.

Minnesota. St. 1894, sec. 120. Prohibits giving away liquor on election day.

Laws, 1895, c. 139. Sections of the general election law making bribery a misdemeanor are applied to village elections.

Laws, 1895, c. 277. Bribing or furnishing funds for bribery at elections is made a felony; punishable by fine of \$500 with costs and by imprisonment of not more than five years. Seeking or receiving a bribe is made a misdemeanor. Treating and entertaining are forbidden. Legal expenditures include payments for public speakers and musicians, the personal traveling expenses of candidates, the rent of halls, the cost of printing, postage, telegraph, and other messenger service, the hire of clerks, challengers and canvassers, and the use of carriages to convey infirm or disabled voters to and from the polls. Contributions of candidates are limited according to the number of voters, and candidates and committees are required to file sworn statements of expenses. Failure to file on part of committees is made a misdemeanor, while the filing of the statement by candidates is a pre-requisite for holding office or receiving salary and failure to file is punishable by a fine limited to \$1,000. Actions for violation of the law may be brought at any time during the term of office. The act does not apply to village, township, or school district elections.

Mississippi. Ann. Code, 1892, secs. 1597, 3275. Penalty for treating or bribing voters, fine and imprisonment.

Missouri. Laws, 1893, p. 157. Requires a statement of receipts and expenditures to be filed by committees and candidates. Failure causes forfeiture of office. Defines legitimate expenses, limits the amount that can be expended according to the number of voters, prohibits treating by candidates and provides punishment for bribery and betting.

Laws, 1897, p. 108. Prohibits use of corporation funds for political or campaign purposes, and places penalties on employers for bribing employees.

Montana. Pen. Code, 1895, secs. 74-III. It is made a misdemeanor to furnish money at elections for any purpose except for holding public meetings, for printing and circulating ballots, handbills, and other papers. Solicitation of and payments by candidates, forbidden. Expenses of candidates are limited and candidates and committees are required to file sworn, itemized statements of expenditures. Penalty for violation, fine and imprisonment. Betting on elections or giving away refreshments with purpose of influencing an elector are made misdemeanors. Bribery is punishable by fine and imprisonment. If it is proven before any court for the trial of election contests or petitions that any corrupt practice has been committed by or with the actual knowledge and consent of any candidate elected, his election is void.

Laws, 1905, c. 99. Extends penalties of the general election law to offenses at primaries.

Nebraska. Comp. St. 1903, secs. 2103-06. Pro-

hibits use of corporation funds for political or campaign purposes.

secs. 3426-48. Requires candidates and political committees to file sworn, itemized statements of expenditures. Candidates' expenses are limited according to the number of voters. Contributions to defray expenses of naturalization are prohibited. Treating, entertainment, and other expenditures not expressly permitted by law are made misdemeanors.

secs. 4234, 7891. Betting on elections punishable by fine. Liquor not to be given away on election days.

Laws, 1905, c. 66. Bribery, a misdemeanor punishable by fine, from \$100 to \$500, or by imprisonment not exceeding a year, or both, in the discretion of the court.

Nevada.¹ Comp. Laws, 1900, secs. 1606, 1672-75. Betting on elections or giving away liquor on election days made misdemeanors. It is made a felony to offer a bribe, or to furnish or procure entertainment, or to convey persons to polls, or to furnish any money or property to promote elections except for the expense of holding public meetings or printing and circulating ballots, handbills, and other papers.

New Hampshire. Pub. St. 1901, c. 39, secs. 10-13, 20. Using liquor to influence voters punishable by fine. Offering reward or contributing money or any other valuable thing to influence persons in voting punishable by fine or imprisonment. Fine, divided between prosecutor and the county. Inquest in case of alleged bribery to be made by any justice of the peace or police judge upon written complaint of five voters.

¹Laws, 1899, c. 108. Repeals law, 1895, c. 103, requiring candidates and election committees to file statements of expenses.

New Jersey. Gen. St. 1895, p. 1317, 1370. Betting on elections prohibited. Bribing voters punishable by fine or imprisonment or both.

Laws, 1896, c. 173. Made unlawful to solicit money from or to sell tickets, etc. to candidates.

New Mexico. Comp. Laws, 1897, sec. 1636, 1662. Penalty for bribery of voters, fine and imprisonment and exclusion forever from franchise or office.

New York. Laws, 1890, c. 94, and 1892, c. 693. Every candidate is required to file sworn, itemized statements of expenses showing in detail all sums of money contributed or expended by him directly or indirectly or by others in his behalf. Penalty for violation imprisonment not exceeding a year and forfeiture of office. Assessment of officers for political purposes made a misdemeanor.

Laws, 1895, c. 155. Any person excepting authorized representative of political party soliciting money from a candidate or seeking to induce him to purchase tickets, etc. is guilty of a misdemeanor.

Laws, 1895, c. 885. Made a misdemeanor to furnish money or entertainment to induce attendance at polls but expenses for conveying electors to polls, for furnishing music, or for rent of halls, or for printing and circulating handbills, books, and other papers are lawful.

Laws, 1896, c. 112, amended by Laws, 1904, c. 205. Unlawful to give away liquor within specified distances of voting places while polls are open.

Laws, 1900, c. 70. Is made a misdemeanor to solicit money or other property from candidates for newspaper support.

Laws, 1899, c. 302, as amended by Laws, 1900, c. 737. Upon the advice of the governor the attorney

general is to assign deputies to act as counsel for the state superintendent of elections and to take charge of prosecutions for crimes against the elective franchise. Extraordinary terms of court may be called if necessary.

Laws, 1905, c. 625. Bribery at elections is made a felony punishable by imprisonment not exceeding five years; giving a bribe also disqualifies for holding office and receiving a bribe disfranchises for five years.

*North Carolina.*¹ Laws, 1895, c. 159. Bribery, betting, treating, or giving away liquor on election days made misdemeanors.

North Dakota. Rev. Codes, 1899, secs. 6855-60. 6890. Bribery at elections made punishable by fine or imprisonment or both, also by disfranchisement. It is made a misdemeanor to bet upon elections or to contribute money to promote the election of any candidate except for expenses of holding public meetings and for the printing and circulating of handbills, and other papers.

*Ohio.*² Anno. and Rev. St. 1900, secs. 2966-48-49-51, 6339, 6448, 6948, 7039-42. Bribery at elections punishable by fine or imprisonment or both; giving a bribe also forfeits office on part of offender and receiving a bribe excludes from suffrage for five years. Betting on elections or giving away liquor punishable by fine or imprisonment. Any candidate at a primary election paying or promising a bribe to any elector becomes ineligible for office and disquali-

¹Laws, 1897, c. 185. Repeals provision of 1895 requiring candidates to file statement of election expenses.

²Laws, 1902, p. 77. Repeals Rev. St. 1900, sec. 3022, subd. 1-24 (Law, 1896, p. 123) requiring candidates and committees to file statements of election expenses.

fied for voting or being nominated at such election or convention.

Laws, 1904, p. 107. Provides penalties for bribery at primary elections.

Oklahoma. Rev. and Anno. St. 1903, secs. 1977-82, 2010. Bribery at elections made punishable by fine or imprisonment or both, also disfranchises offender. Betting upon elections or furnishing money for elections either on the part of candidates or of others to promote the election of any person made a misdemeanor. Use of money permitted for expenses of holding public meetings and for printing and circulating ballots, handbills, and other papers.

Oregon. Const. 1859, art. 2, sec. 7. The giving or offering of a bribe by a candidate causes forfeiture of office.

Codes and St. 1901, secs. 1900-01. Penalty for bribery at elections, imprisonment; for giving away liquor, fine or imprisonment or both.

Pennsylvania. Const. 1874, art. 7, sec. 1. Officials before entering upon duty are required to swear that they have not contributed or promised to contribute either directly or indirectly any valuable thing to procure their nomination or election or appointment except for expenses expressly authorized by law.

art. 8, sec. 8, 9. Bribery causes forfeiture of right to vote and forever disqualifies for holding office.

Laws, 1817, p. 204. Betting on elections, a misdemeanor.

Laws, 1874, p. 64. Contributions by candidates except for specified purposes are prohibited.

This act excepts out every direct and indirect purchase of the vote or influence of an elector, and every act for any

corrupt purpose whatever, incident to an election. *Commonwealth v. Walter*, 1877, 86 Pa. 15.

The statute, however, does not prohibit the employment of friends to canvas the district on behalf of a candidate, and to secure the return of delegates or the casting of votes for him; such services are a good consideration for a promise to pay for them. *Williams v. Commonwealth*, 1879, 91 Pa. 493.

Laws, 1881, p. 70. Penalty for bribery at nominating conventions or primary elections, fine and imprisonment.

Laws, 1883, p. 96. Assessment of public officers by campaign committees punishable by a fine not to exceed \$100.

Laws, 1887, p. 113. Furnishing liquor on election day, a misdemeanor.

Laws, 1889, p. 16. Bribery at elections made a misdemeanor; punishable by fine not over \$1,000 and imprisonment limited to one year.

Laws, 1897, p. 275. Assessment of public officers for political purposes by heads of departments punishable by fine limited to \$1,000 or by imprisonment not exceeding a year, or by both in the discretion of the court.

Laws, 1897, p. 276. Payment of poll tax for other persons except on written order, a misdemeanor.

Laws, 1906, No. 6. Prohibits municipal officers or employees in cities of the first class from soliciting or contributing funds for political purposes. Penalty, a fine limited to \$500 and forfeiture of office.

Laws, 1906, No. —.¹ Requires candidates and treasurers of political committees to file sworn statements of nomination and election expenses if the amount exceeds \$50. All expenditures of political committees must pass through the hands of the treas-

¹Approved by the Governor, Mar. 5. Not yet published.

urer. Legal expenditures are limited to the following purposes: 1. for printing and traveling and incidental personal expenses, stationery, advertising, postage, express, freight, telegraph, telephone and public messenger services; 2. for dissemination of public information; 3. for political meetings, demonstrations and conventions and for the pay of speakers; 4. for renting and furnishing offices; 5. for the payment of clerks, janitors, messengers, etc. actually employed; 6. for election watchers; 7. for taking voters to and from the polls; 8. for bona fide legal expenses. Contributions for political purposes by corporations are forbidden. Filing of statement is a pre-requisite for entering upon office and any five electors may institute an inquiry into the accounts filed by candidates or committees. Any violation of the act is punishable by fine ranging from \$50 to \$1,000 or by imprisonment from one month to two years or both at the discretion of the court.

Rhode Island. Gen. Laws, 1896, c. 14. Penalty for bribing voters, fine or imprisonment or both.

South Carolina. Cr. Code, 1902, secs. 271-4. Betting on elections, a misdemeanor. Bribery punishable by fine and imprisonment.

Laws, 1904, no. 231. Treating within a mile of a voting precinct on election days made punishable by fine or imprisonment with labor.

South Dakota. Pen. Code, 1901, secs. 7510, 7545-54. Furnishing money for elections except for expense of holding public meetings and of printing and circulating ballots, handbills, and other papers, a misdemeanor. Bribery at elections made an infamous crime punishable by imprisonment, forfeiture of office,

and disfranchisement for five years. Giving away liquor or betting upon elections, misdemeanors.

Tennessee. Laws, 1897, c. 14. Prohibits bribes either before or after election.

Laws, 1897, c. 18. Use of corporation funds for political or campaign purposes, unlawful.

Texas. Const. 1876, art. 16, sec. 1. Requires every legislator and state officer before entering upon his duty to swear or affirm that he has not directly or indirectly paid or promised to pay anything as a reward for the giving or withholding a vote at the election at which he was elected.

Sec. 5. Bribery to secure election disqualifies.

Laws, 1905, c. 11. Managers of headquarters, clerks and agents and others handling funds or using influence for any political party or for any candidate are required to file sworn, itemized statements of receipts and expenditures, showing in detail the source of the funds or support received and the purposes for which they were employed and whether there is reason to suspect that any person furnishing funds or influence was acting for or in the interest of any corporation. Candidates are also required to file sworn, itemized statements of expenses including amounts paid to newspapers, hotels, and for traveling. Failure to file, a misdemeanor punishable by a fine of not less than \$200 nor more than \$500 and in the discretion of the court, by a sentence to work on the roads not less than thirty days nor more than one year.

Bribery, whether under the guise of a wager or otherwise, is made a felony; also disqualifies for office. Giving away liquor on election days, a misdemeanor. Paying the poll tax of another except as permitted by

law is a felony punishable by imprisonment for not less than two nor more than five years. Advancing money to another for paying poll tax, or giving or receiving a consideration for a poll tax receipt made misdemeanors. Issuing a poll tax receipt to a fictitious person is punishable by imprisonment of from three to five years. Assessment of public officers or employees for political purposes made a misdemeanor.

Political advertising is to be labeled as such and to be paid for at regular rates; the penalty for violation is a fine of not less than \$500 nor more than \$1,000 and imprisonment in jail or work on the roads not exceeding thirty days.

Contributions by corporations for political purposes are prohibited; if made with the connivance of its president, financial agent, or treasurer, corporation is to forfeit its charter.

*Utah.*¹ Laws, 1890, c. 35. Giving away liquor on election days, a misdemeanor.

Laws, 1896, c. 56. Bribery at elections punishable by fine or imprisonment or both. Betting on elections, a misdemeanor.

Vermont. St. 1894, secs. 5113-14. Provides penalties for bribery and for giving away liquor at elections.

Laws, 1903, c. 6. Prohibits payment or promise of money to secure nomination except for personal, traveling, printing, and incidental expenses.

Virginia. Code, 1904, secs. 144b, 145a, 3824, 3847, 3853. Expenditures by candidates or by others in their behalf are prohibited except for printing or ad-

¹The provision of 1896, requiring candidates and election committees to report expenses, was repealed in 1897.

vertising in newspapers or for securing halls for public speaking; penalty, fine or imprisonment. Every candidate is required to file a sworn statement setting forth in detail all sums of money contributed, disbursed, expended, or promised by him and by others in his behalf to secure his nomination or election and also all sums contributed, expended, or promised by him in connection with the nomination or election of other persons at such election. The statement is to show the date and the persons to whom and the purposes for which all such sums were paid or promised; penalty for failure to comply, a fine not exceeding \$5,000. Conviction of violation of law makes election null and void unless contestant is entitled to office. Penalties are provided for bribing election officers, for giving or receiving bribes, for giving away liquor, and for betting on elections.

Washington. Cod., 1901, secs. 1748-49. Bribery of voters or giving away liquor on election day punishable by fine or imprisonment or both.

West Virginia. Const. 1872, art. 4, sec. 1. Bribery in an election disfranchises offender.

Code, 1899, c. 5, secs. 8-11. Provides penalties for bribery, treating, and for betting on elections.

Wisconsin. Rev. St. 1898, secs. 13, 4478-81, 4535, 4542b as amended by Laws, 1899, c. 341. The penalty for bribery at any election is imprisonment, at any caucus or preliminary meeting, fine or imprisonment or both; conviction of bribery excludes from right of suffrage unless restored to civil rights; office obtained by bribery is to be deemed vacant. Betting on any election is punishable by fine and loss of vote.

Secs. 4543b-f as amended by Laws, 1905, c. 502.

Contributions of money to aid the nomination or election of any person to the legislature by non-resident of district are prohibited; penalty for violation, imprisonment; not to apply to payments for his own personal expenditures by any person participating in a campaign nor to contributions made to committees to be expended for general purposes. A sworn statement is to be filed by every candidate showing in detail each item in excess of \$5.00 contributed, disbursed, expended, or promised by him and to the best of his knowledge by others in his behalf in endeavoring to secure the nomination or election of himself or of any other person and also showing the dates when and the persons to whom and the purposes for which such sums were paid, expended, or promised. Such statement shall also set forth that the same is as full and explicit as affiant is able to make it; the county clerk is to publish names of candidates failing to comply and the district attorney is to examine all statements filed and to institute prosecutions for violations; penalty for violation is fine of not less than \$25 nor more than \$500. Accounts of disbursements by political committees are to be kept by treasurer through whose hands all funds are to pass and who is required to keep and file a full and detailed statement of the sums received or disbursed, giving the date when and the person for whom received and to whom paid and the object and purpose for which the sum was received or disbursed, together with a complete account of the outstanding financial obligations of the committee; violation by treasurer punishable by imprisonment.

Laws, 1905, c. 492. Prohibits political contributions by corporations. Penalty, fine of not less than \$100 nor more than \$5,000 or by imprisonment of

from one to five years or both fine and imprisonment in the discretion of the court.

Wyoming. Const. 1889, art. 6, sec. 8. Requires that every legislator and every judicial state or county officer before entering upon duty swear that he has not paid or contributed or promised to pay or contribute directly or indirectly any money or other valuable thing to procure his nomination or election except for necessary and proper expenses expressly authorized by law.

Rev. St. 1899, sec. 379. Betting on elections disqualifies for voting or for holding office.

SUMMARY

The leading provisions of contemporary laws¹ may be briefly outlined under the following headings: 1. publicity; 2. restrictions on contributions; 3. limitations on expenditures; 4. procedure for judicial inquiry; 5. penalties.

Publicity

Statements of receipts and expenditures. The requirements made in the different states for filing sworn, itemized statements vary. Provisions exist for statements by candidates, political agents, committees, and others handling funds.

Candidates. For statements required of candidates compare the laws of Ariz. Cal. Col. Conn. Mass. Minn. Mo. Mont. Neb. N. Y. Tex. Va. and Wis.

Committees. Compare Ariz. Cal. Col. Conn. Mass. Minn. Mo. Mont. Neb. Tex. and Wis. for statements required of political committees.

Political agents. The English statute of 1883, 46 and 47 Vict. c. 51, explicitly requires that every candidate and also his head agent file sworn statements giving the names of all persons employed and the amounts paid to them.

Others handling funds. The Texas law of 1905 has the inclusive provision that "all others handling funds" also file sworn, itemized statements.

¹For a comparison of the laws of the different states see, *Laws and Judicial Decisions*.

Publication of statements. Some of the laws merely require that the statements be filed for public inspection; others provide for advertisement in newspapers, while still others require publication in the form of a public document.

Compare laws of Cal. Col. Conn. Mass. Neb. Va. Wis. England, and Ontario.

Restrictions on contributions

Among recent attempts to limit the source of funds are those prohibiting contributions by corporations. Limitations have also been placed upon the solicitation of candidates, and the assessment of public officers and employees. Prohibiting contributions by non-residents of district to aid in the nomination or election of any person to the legislature is a further attempt to limit the sources of funds.

Corporate contributions. Compare the laws of Mo. Neb. and Tenn. for 1897; Fla. 1898; Ky. 1900; and Wis. 1905. Forfeiture of charter or of the right to do business within the state are among the penalties imposed for violation.

Restrictions on non-residents. See Wis. Rev. St. 1898, sec. 4543b, prohibiting non-resident contributions.

Solicitation of candidates. Compare laws of Cal. Conn. Ill. and N. J. making solicitation of candidates unlawful. Contributions to authorized committees or agents permitted.

Political assessments. See U. S. Act of Cong. Aug. 15, 1876, c. 287, sec. 6, forbidding assessments.

Limitations on expenditures

Expenditures are limited as regards the purpose of payments, the amount that may be spent, and the agency for the disbursements of funds.

Purpose of payments. Among the payments prohibited are those for bribery, betting, treating, and entertainment.

Bribery. Giving or receiving a consideration for a vote was an offense at common law. *Rex v. Pitt*, 1762, 3 Burr. 1335.

Betting. Compare laws of Ariz. Cal. Me. Mo. Neb. N. D. Okla. Pa. Tex. and Wis. making betting on elections illegal.

Treating and entertainment. Compare laws of Ark. Fla. Miss. N. H. N. C. and S. C. prohibiting treating and entertainment.

Expenditures either prohibited or closely limited include: payments for naturalization fees, or poll taxes of others; the hiring of conveyances and an undue number of workers; and the payment of money for bands, torches, badges, and other insignia.

Naturalization fees. Compare laws of Conn. and Neb. making payment of fees for another unlawful.

Poll taxes. See Tex. Laws, 1905, c. 11 for strict prohibitions against paying or pledging the poll tax of another.

Hiring conveyances, bands, etc. The English law of 1883 makes hiring conveyances to bring electors to the polls an illegal practice, and paying for bands, torches, etc. illegal payments.

Election workers. See the English law, 1883, which deprives election workers of vote, and the Minn. law of 1895, c. 277, which limits their employment for designated duties.

Amount spent. In several states the amount which may be spent is limited either according to the number of voters or to the amount of salary attached to office.

Number of voters. Compare the law of Minn. 1895, and of Mo. 1893, for limitations based on number of voters.

Salary. The Cal. law, 1893 limits the expenditures of candidates according to salary.

Responsibility for expenditures. Requiring expenditures to be made exclusively through designated and duly authorized agents secures unity and responsibility in disbursements.

The Conn. law of 1905 requires all election expenses to be paid by treasurers of committees, or by political agents, except specified expenditures permitted to candidates.

Procedure for judicial inquiry

Among the methods employed to secure judicial inquiry into election offenses are the following:

Initiative by citizens. This method enables any elector or group of electors to institute proceedings.

Compare laws of Cal. 1893, and of Conn. 1905, for this method.

Suit by candidate. Another method of procedure is to authorize the candidate having the next highest number of votes to bring suit in the name of the state in case the attorney general fails to act upon a petition charging violations of the law.

For an application of this plan see the Mo. law of 1893.

Official inquiry. The laws quite generally provide for official initiative to bring offenders to trial.

Compare the various methods of Cal. Conn. Mass. Minn. N. Y. and Wis. in providing for inquiry into election offenses.

Trial of petitions. Usually several judges preside in the election court and there is no jury. In some states there are only two judges and a unanimous decision is necessary for conviction.

Compare laws of Conn. N. Y. and Minn. for different methods.

Appeals. Provision is made for appeal from election courts to higher courts as in other cases.

In Cal. whenever an election is annulled, appeal must be taken within ten days. In Ontario appeals are given precedence over all ordinary cases.

Penalties

The penalties of the law vary according to the nature of the offense and the statutory provisions of the different jurisdictions.

Fines and imprisonment. The severity of the penalties varies greatly in the different states, ranging from trifling sums to thousands of dollars for fines and from brief periods of confinement in jail to long imprisonment in the penitentiary.

For a variety of penalties compare the laws of Cal. Conn. Mass. Minn. Mo. Neb. N. Y. Va. and Wis.

Disfranchisement. Exclusion from the right of suffrage for varying periods is made the penalty for different corrupt practices.

The Illinois law of 1899, c. 46, disfranchises the bribe taker from five to fifteen years, and for a second offense, forever. Was held constitutional, *Christie v. People*, 1903, 206 Ill. 337.

Kentucky makes both the giving and the taking of a bribe at an election punishable by loss of suffrage.

Disfranchisement of district. During the 19th century quite a number of election boroughs in England were disfranchised on account of the prevalence of bribery.

Forfeiture of office. In England it is a recognized principle that bribery disqualifies for holding office. In the United States constitutional or statutory provisions making bribery a disqualification for office are found in most of the states.

See *State v. Elting*, 1883, 29 Kan. 397; *State v. Collier*, 1880, 72 Mo. 13; *State v. Olin*, 1868, 23 Wis. 309.

But in the absence of such provisions the courts have generally held that bribery would not disqualify a candidate for holding office.

People v. Thornton, 1881, 25 Hun. (N. Y.) 456; *Com. v. Shaver*, 1842, 3 W. & S. (Pa.) 338; *People v. Goddard*, 1885, 8 Col. 461.

Under some of the laws requiring statements of

election contributions and expenditures, failure to conform brings forfeiture of office.

Compare laws of Cal. Minn. Mo. and Neb. respecting forfeiture.

The N. Y. statute provides for forfeiture of office for corrupt practices but has no proceeding to enforce the penalty.

Annulment of election. An election secured by bribery is void.

Universally the rule. Wayne Co. v. Judges, 1895, 106 Mich. 166; People v. Thornton, 1881, 25 Hun. (N. Y.) 456; State v. Purdy, 1874, 36 Wis. 213.





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